

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SAMUEL RATLEY,

Plaintiff,

-against-

CITY OF TROY, DOMINICK COMITALE, Troy Police Officer,
BRANDON CIPPERLY, Troy Police Officer,

Defendants.

**ANSWER ON
BEHALF OF
THE CITY OF TROY**
Case No.: 1:16-cv-0650
(MAD/DJS)

The defendant, City of Troy (hereinafter “City”) for its Answer to the Complaint of the plaintiff states as follows:

INTRODUCTION

1. Denies that it has any knowledge or information sufficient to form a belief thereof as to the truth of any of the allegations contained in paragraph of the complaint herein marked and numbered “1”.

JURISDICTION

2. Denies that it has any knowledge sufficient to form a belief thereof as to any of the allegations contained in paragraphs of the complaint herein marked and numbered “2” and “4”.

3. Denies each and every allegation contained in paragraph of the complaint marked and numbered “3” except admits that on or about the 5th day of August, 2015, it received a writing purporting to be a Notice of Claim.

PARTIES

4. Admits the allegations contained in paragraph of the complaint marked and numbered "6".

5. Denies that it has any knowledge or information sufficient to form a belief as to the truth thereof of any of the allegations contained in paragraphs of the complaint herein marked and numbered "5", "7", "8", "9", and "10", except admits that the defendants Dominick Comitale and Brandon Cipperly were and remain employed by the City of Troy Police Department.

FACTS

6. Denies that it has any information or knowledge sufficient to form a belief as to the truth thereof any of the allegations contained in paragraphs of the complaint herein marked and numbered "11", "12", "18", "22", "25", "26", "27", "28", "31" and "33".

7. Denies each and every allegation contained in paragraphs of the complaint herein marked and numbered "13", "14", "15", "16", "17", "19", "20", "21", "23", "24", "29", and "30".

8. Admits to the allegations contained in paragraphs of the complaint marked and numbered "31".

9. Denies each and every allegation contained in paragraph of the complaint herein marked and numbered "32", except admits that the lawsuits described therein were commenced against this defendant in the United States District Court for the Northern District of New York.

10. Denies each and every allegation contained in paragraph of the complaint herein marked and numbered “34”, except admits that the lawsuits described therein were commenced against this defendant in the United States District Court for the Northern District of New York.

AS TO THE FIRST CAUSE OF ACTION

11. This defendant repeats and realleges each and every admission and denial set forth above in paragraphs “1” through “10”, inclusive, with the same force and effect as if again set forth at length here.

12. Denies each and every allegation contained in paragraphs of the complaint marked and numbered “37” through “39”, inclusive.

AS TO THE SECOND CAUSE OF ACTION

13. This defendant repeats and realleges each and every admission and denial set forth in paragraphs of this answer marked and numbered “1” through “10”, inclusive and “12” with the same force and effect as if again set forth at length here.

14. Denies each and every allegation set forth in paragraphs of the complaint marked and numbered “41” through “43”, inclusive.

AS TO THE THIRD CAUSE OF ACTION

15. This defendant repeats and realleges each and every admission and denial set forth in paragraphs of this answer marked and numbered “1” through “10”, inclusive and “12” and “14” with the same force and effect as if again set forth at length here.

16. Denies each and every allegation set forth in paragraphs of the complaint marked and numbered “45” through “47”, inclusive.

AS TO THE FOURTH CAUSE OF ACTION

17. This defendant repeats and realleges each and every admission and denial set forth in paragraphs of this answer marked and numbered “1” through “10”, “12”, “14”, and “16” with the same force and effect as if again set forth at length here.

18. Denies each and every allegation set forth in paragraphs of the complaint marked and numbered “49” through “51”, inclusive.

AS TO THE FIFTH CAUSE OF ACTION

19. This defendant repeats and realleges each and every admission and denial set forth in paragraphs of this answer marked and numbered “1” through “10”, inclusive, “12”, “14”, “16”, and “18” with the same force and effect as if again set forth at length here.

20. Denies each and every allegation contained in paragraphs of the complaint marked and numbered “53” through “55”, inclusive.

AS TO THE SIXTH CAUSE OF ACTION AGAINST THE CITY OF TROY

21. This defendant repeats and realleges each and every admission and denial set forth in paragraphs of this answer marked and numbered “1” through “10”, inclusive, “12”, “14”, “16”, “18” and “20” with the same force and effect as if again set forth at length here.

22. Denies each and every allegation contained in paragraphs of the complaint marked and numbered “57” through “65”, inclusive.

AS TO THE SEVENTH CAUSE OF ACTION AGAINST THE CITY OF TROY

23. This defendant repeats and realleges each and every admission and denial set forth in paragraphs of this answer marked and numbered “1” through “10”, inclusive, “12”, “14”, “16”, “18”, “20” and “22”.

24. Denies each and every allegation contained in paragraphs of the complaint marked and numbered “65” through “67”, inclusive.

AS TO DEMAND FOR PUNITIVE DAMAGES

25. This defendant repeats and realleges each and every allegation set forth in paragraphs of this answer marked and numbered “1” through “10”, inclusive, “12”, “14”, “16”, “18”, “20”, “22” and “24” with the same force and effect as if again set forth at length here.

26. Denies each and every allegation contained in paragraph of the complaint marked and numbered “74”.

GENERAL DENIAL

27. This defendant denies any allegations not specifically admitted, denied or controverted herein and denies that plaintiff is entitled to any of the relief requested in the Wherefore clause.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE,
THESE DEFENDANTS ALLEGE:

28. That probable cause existed for the arrest and detention of the plaintiff.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE,
THE DEFENDANT CITY OF TROY ALLEGES:

29. That as a matter of law this defendant is not legally responsible for any tortious conduct on the part of its employees.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE
THE DEFENDANT CITY OF TROY ALLEGES:

30. That none of the constitutional deprivations described and alleged in the complaint herein arose or were caused by an official governmental policy or custom of the City

of Tory within the meaning of and as required by the case of Monell v. Dept. of Social Services of the City of New York, 436 U.S. 658.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE
THE DEFENDANT CITY OF TROY ALLEGES:

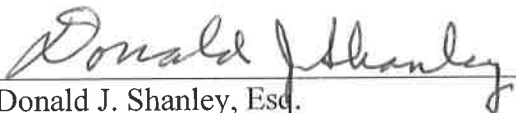
31. That the complaint does not allege facts sufficient to state a valid claim against this defendant.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE
THESE DEFENDANTS ALLEGE:

32. That on the date of May 8, 2015, the plaintiff was convicted following a jury trial had in the Troy Police Court of the charge of having in his possession an open container of an alcohol beverage and this established as a matter of law that there was probable cause to arrest, detain and prosecute him.

WHEREFORE, this answering defendant demands judgment dismissing the complaint of the plaintiff with costs.

Dated: August 18, 2016.


Donald J. Shanley, Esq.

Bar Roll No.: 102582

Pattison, Sampson, Ginsberg & Griffin, P.C.
Attorneys for Defendant,
City of Troy
22 First Street - P. O. Box 208
Troy, New York 12181-0208
(518) 266-1029

TO: Jessica M. Gorman, Esq.
Attorneys for Plaintiff
74 Chapel Street, 2nd Floor
Albany, New York 12207